



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF

FIRST PHASE REVIEW

ACQUISITION OF SHARES OF FAUJI KABIRWALA POWER
COMPANY LIMITED AS A RESULT OF ACQUISITION OF 100%
SHARES OF POWERTEK ENERGY SDN. BHD. BY FINAL CAPITAL
SDN. BHD.

CASE: 778/MERGER-CCP/15

Commission

Ms. Vadiyya Khalil
Chairperson

Mr. Shahzad Ansar
Member

Mr. Ikram Ul Haque Qureshi
Member



ORDER

I Background

- 1 Powertek Investment Holding Sdn Bhd ("Powertek Investment"/ "Seller"), through its authorized representative submitted a pre-merger application (the "Application") dated 17 December 2015 (received on 23 December 2015), to the Competition Commission of Pakistan (the "Commission") notifying the acquisition of [redacted] shares of Fauji Kabirwala Power Company Limited ("FKPCL"/ "Target"), as a result of the cross-border acquisition of [redacted] shares of Powertek Energy Sdn Bhd ("Powertek Energy") by Final Capital Sdn Bhd ("Final Capital"/ "Acquirer"), along with the applicable processing fee and necessary information in accordance with the Competition (Merger Control) Regulations 2007 (the "Merger Regulations").

The case is examined as under:

II Merger Parties

Acquirer

- 2 The Acquirer, Final Capital, is a newly incorporated company registered under the Malaysia Companies Act 1965, on 5 November 2015, in Kuala Lumpur, Malaysia. The Acquirer, a special purpose vehicle has been established to hold the assets to be acquired via the Transaction in numerous countries. The Acquirer is an indirect wholly owned subsidiary of China General Nuclear Power Corporation ("CGNPC"), which also operates as an investment holding company in China. Both the Acquirer and CGNPC are part of the China General Nuclear Power Group (CGNPG), a clean energy company headquartered in Shenzhen China. The Acquirer has no direct or indirect presence in Pakistan.

Target

- 3 The Target, FKPCL is a company registered under the laws of Pakistan. The commercial activity of the Target is power generation through a 157 MW combined cycle power plant located near Kabirwala, District Khanewal, Pakistan. The plant was set up in collaboration with M/s. El Paso Energy International, USA (now M/s Pendekar Kabirwala Power Company in Malaysia) with debt/equity ratio of [redacted]. Asian Development Bank ("ADB") and Export Development Canada ("EDC") have financed a majority portion [redacted] of the debt. The project commenced commercial operations on 21 October 1999 and ever since has been supplying power to the National Grid.

Powertek Energy, an investment holding company in power generation in Asia and the Middle East, currently has a [redacted] shareholding in the Target. Powertek Energy, in turn, is a fully owned subsidiary of the Seller, Powertek Investment.

III Transaction

- 4 Final Capital intends to acquire [redacted] indirect shareholding in the Target, FKPCL, as a consequence of the acquisition of [redacted] shareholding of Powertek Energy from Powertek Investment, the cost of which will be met by Final Capital's holding company.



Handwritten signatures and initials, including a large signature and the letters 'TA' and 'H'.

- 5 The transaction meets the notification thresholds as prescribed in Regulation 4(2)(a), (b), (c) & (d) of the Merger Regulations, with the Acquirer's assets valuing more than PKR 300 Million and combined assets of the Acquirer and the Target being more than PKR 1 Billion. Further, the turnover of the Acquirer is more than PKR 500 Million and the combined turnover is more than PKR 1 Billion. The transaction value also exceeds PKR 100 Million and the percentage of share to be acquired exceeds 10% of the total shareholding of the Target.

IV Relevant Market:

- 6 -The relevant product market in this case is power generation.
- 7 -Since the Target operates in Pakistan, the relevant geographic market is Pakistan.
- 8 - The Target's market share in the relevant market is highlighted below:

Company Name (Thermal)	Installed Capacity (MW)	Market Share (%)
GENCO with WAPDA		
KEL		
Independent Power Plants (IPP'S)		
HUBCO		
Kot Addu Power Company (KAPCO)		
Uch Power		
Rouch Power		
Pak Gen Power		
Nishat Power Plant		
Lalpir Power Plant Limited		
Fauji Kabirwala Power Company Limited		
Others		
Sub Total IPP'S Generation		
IPP'S Connected with KEL		
i. Tapal Energy Limited		
ii. Gul Ahmed Power Project		
CPPs/SPPs connected with KEL		
Engro Powergen THAR	660 (to be added in national grid)	2.62% (projected market share on the basis of capacity)
Total Thermal Generation		
Hydel Generation		
WAPDA Hydel		
IPPs Hydel		
Total Hydel Generation		
NUCLEAR		
CHSNAP (I&II)		
KANUPP		
Total Nuclear Generation		
Wind		
Wind Power Plant with PECPO		
Total Wind Generation		
Grand Total		



Handwritten signature and initials, possibly 'VZC TA'.

V Findings of the Phase I investigation on the competition assessment

9 The competition assessment in Phase-I has resulted in the following finding:

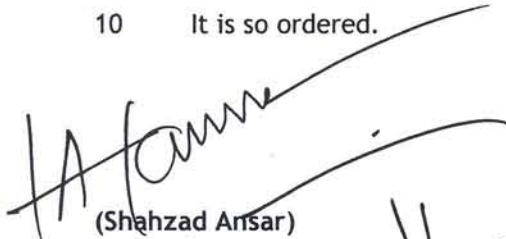
The Acquirer is a special purpose vehicle based in Kuala Lumpur Malaysia and Target is a power generation company based in Pakistan with a nominal market share of _____ in the relevant market for power generation. Post-merger, the Acquirer will hold _____ shares in the Target in the form of an investment. The Acquirer has no other direct or indirect presence in the relevant market in Pakistan and even otherwise is not involved in any activity in Pakistan which is similar to that of the Target.

Furthermore, post-merger, the market share of Target will remain the same, which is negligible in the power generation sector in Pakistan. Therefore, the intended merger does not meet the presumption of dominance as determined under Section 2(1)(e) read with Section 3 of the Competition Act 2010 ("Act").

VI Conclusion

In conclusion, there is no evidence that the intended merger is likely to result in a substantial lessening of a competition by creating or strengthening of a dominant position in the relevant market. The intended merger may therefore be authorized under Section 31(1) (d) (i) of the Act.

10 It is so ordered.


(Shahzad Ansar)
Member



(Vadiyya Khalil)
Chairperson


(Ikram Ul Haque Qureshi)
Member



17th, February 2016.